

Agricultural Advisory Committee (AAC)

Minutes of March 20, 2012

Attendance: David Weitzer, Linda Lewis, David Heisler, Tim McGrath, Jane Evans, Robert Beall, Woody Woodroof, Ben Allnutt, Patrick Brown, Drew Stabler, Chuck Schuster

Guests: Debbie Belt Benson, Dan Gunn

Staff: Jeremy Criss, Callum Murray

The meeting was called to order at 7:02 pm.

Introductions: Everyone introduced themselves.

Approval of Minutes February 21, 2012:

The Committee was asked if any changes or corrections were needed to the AAC minutes from February 21, 2012. Jane Evans said that Anne Sturm's name was not spelled correctly. Jeremy suggested the section on the RDT Intent Statement may be too long. The AAC suggested how to reduce this section down. Hearing no additional changes Jane Evans motioned to approve the minutes as corrected, and Robert Beall seconded the motion and it passed.

Follow up on the UME-Agronomy Educator Position:

Representatives from the UME-Central MD Cluster-Frederick, Howard, and Montgomery counties responded regarding their commitment of funding for the position. Criss said he did not draft a letter from the AAC to the Dean because he needed more time to huddle up with the Central MD counties to identify the county funding and draft a response to the Dean. Criss said that if private funding is used for the position he recommends the responsibility to secure private funding will be done by the new Area Extension Director-AED that will start in April 2012. Criss said that Montgomery County has offered to front funding for both Frederick and Howard counties for FY13 contingent upon these counties providing their full share in FY14 and beyond.

Drew and Robert Stabler Inducted into the Governor's Maryland Agriculture Hall of Fame:

Drew and Robert Stabler are the first Montgomery County farmers inducted into the Agriculture Hall of Fame. Criss said the presentation for this induction is loaded on the County Government web site and it can be downloaded from the County YouTube for all county residents to see. <http://www.youtube.com/watch?v=8MsF-yIKgjI&feature=youtu.be> Jane Evans asked if this induction was for 2011 or this year

2012 because she is working on the Montgomery County Farm Bureau newsletter. Criss said it was a 2011 induction.

New Appointments to the AAC:

The Agricultural Advisory Committee still needs another farmer-horticulture representative. David Heisler emailed Charlotte Ruppert encouraging her to apply for the farmer-horticulture member position on the AAC. Criss said that once Charlotte applies he will be able to move forward on the new appointments to the AAC.

Agricultural Producers Summit February 24, 2012:

Criss said that he was unable to attend the Summit and he thanked John Fenderick, Susan Butler, and David Heisler for attending.

Discussion on the County Development Impact Tax:

The Committee was contacted by Amy Gunn regarding how the County-DPS was imposing the development impact tax on an accessory dwelling-farm tenant on the family farm. The Development Impact tax is calculated at the full tax rate of \$23,000 which is the same rate as a primary dwelling. The AAC discussed how an accessory dwelling is not the same as a primary dwelling and therefore the Development Impact Tax should not be the same rate for both the primary and an accessory dwelling. Dan Gunn (Amy's husband) came to the meeting to review the situation surrounding the farm tenant dwelling on the 25 acre Old Sage farm on Sundown Road. Dan said they went through the permitting process and met all of the development standards. At one point they were told verbally by a DPS employee that there was no Development Impact tax on an accessory dwelling-farm tenant dwelling. When they went to pick up the building permit this was when they learned about the Development Impact Tax being imposed at the full rate. Dan said they submitted a letter to the Director of DPS requesting the rate should be lower for accessory dwellings and the response from the Director of DPS stated "While the house you intend to construct may be an "accessory dwelling" under the Zoning Ordinance, it is nonetheless a dwelling unit. **The interpretation you seek would require a law change.** Also the DPS has acknowledged the error that was done on calculating the Development Impact tax for the Old Sage Farm property and that a correction would be done. Drew Stabler suggested that accessory structures and accessory dwellings should be treated differently than a primary/principle dwelling. Drew asked if an agricultural building would trigger the Development Impact Tax. Linda Lewis said that she had to pay the Development Impact tax on her renovated farm market building. Robert Beall said that Mr. Gunn's situation could impact any of us today. Callum said that he believes a letter from the APAB and the AAC requesting a review of the Development Impact Tax would be helpful. Tim McGrath asked what we would propose. Drew suggested that we need to consider requesting a reduction in the tax rate but not a full exemption. Woody Woodroof suggested that we reference the agricultural property tax being a lower rate and use this reference to propose a lower rate for the Development Impact tax. Hearing no additional discussion Drew Stabler motioned for

the AAC to write a letter to the County Government recommending that the Development Impact tax for accessory structures and accessory dwellings should only be 30% of the full tax rate. Linda Lewis seconded the motion and it passed.

Update on Local Bills in the 2012 Maryland Legislative Session:

On March 8, 2012 the Senate members of the Montgomery County Delegation approved HB 722 MC 16-12 (Private covenants restricting agricultural activities and structures on TDR easement properties) without the Barley amendment and sent the Bill back to the House members that already approved the Bill with the Barkley amendment. On March 16, 2012 the House members voted on the Bill again and rejected the action taken by the Senate and therefore the Bill is dead for this session. Criss said that on March 16, 2012 HB 723 MC 7-12 (Septic and Well Easements in rural zones) was passed by the House Environmental Matters committee and the Bill will be heard next in the Senate. Tim McGrath said he was concerned regarding House Bill 912 which proposed to change the definition of animal ownership and guardians. Jane Seigler said HB 912 is dead this session.

Recommendations surrounding proposed changes to Intent of the RDT zone:

The Committee was asked to turn to the packet (Attachment D.) outlining the AAC subcommittee that met on March 8, 2012 to discuss the proposed changes recommended by Diana Conway. Jane Seigler is the agricultural representative on the Zoning Advisory Panel-ZAP and she thanked the members of the AAC subcommittee- Tim McGrath, Callum Murray, Jane Evans, Eddie Kuhlman, and David Heisler. Jane reviewed the discussion of the AAC subcommittee including what they were recommending to the full AAC committee. Jane said the subcommittee recommended against the proposed changes to the intent statement and to support the existing intent statement with the wording offered by Callum Murray and a suggestion to consider changing the RDT zone to the Agricultural Reserve zone. After additional discussion Jane Evans motioned to approve the letter to the MNCPPC with the recommended revisions, Linda Lewis seconded the motion and it passed. *(Please see Attachment C in the April 17, 2012 meeting packet)*

Proposed DED-ZTA for Agricultural and Horticultural uses in the RDT Zone:

Steve Silverman, Director-DED and Criss met with the Sugarloaf Citizens Association-SCA on March 12, 2012 to review the proposed DED-ZTA for expanding agricultural and horticultural uses in the RDT zone. Criss referenced in the packet (Attachment E.) that was handed out on the meeting and it contained the DED responses to concerns from the SCA. Most of the discussion during the meeting surrounded the concerns of horticultural businesses in the RDT zone and the lack of County DPS zoning enforcement. The DED will need to decide how to proceed on the ZTA. Woody Woodroof asked if the horticultural uses could be removed from the ZTA. Criss said that Steve Silverman will need to consider this given the opposition that the SCA has for the horticultural industry as a whole. Chuck Schuster recommended against removing the

horticultural uses and he gave an example of how John Shorb was contacted by representatives in Washington DC to leave Montgomery County and relocate his landscape business into the District. Chuck said the County really needs to find places for horticultural businesses to locate otherwise they will leave the County like John Hughes and John Shorb.

Recommendation on ZTA 12-03 Wineries in the Agricultural Zones:

The Committee was asked to turn to the packet (Attachment F.) to discuss the proposed ZTA 12-03 for Wineries in the agricultural zones. Wineries are currently permitted by right in the RDT zone provided they do not have more than 2 public events each year. The proposed ZTA will increase the number of public events to 6 per year and it will require that 20% of the fruit used in the wine making process must be grown on the site where the winery is located. Criss said that Frederick County currently has 11 wineries and Carroll County has 4 wineries and Loudoun County, VA has 40 wineries. Montgomery County has two wineries however only one actually grows the fruit for the wine making process. Frederick County also requires that a farm winery is permitted as long as they have a Class IV winery license by the State of Maryland for making Maryland labeled wine. Callum Murray asked if a public event was defined and Criss said that public events are not currently defined but they should be. Jane Evans said we need to be careful and not oppose the 20% fruit growing standard because the proposed DED-ZTA for Agricultural and Horticultural uses proposes a 20% minimum growing standard for permitting landscape contractors in the RDT zone. Tim McGrath suggested that some folks have been talking about developing micro-breweries and distilleries in the RDT zone. After additional discussion the AAC agreed that the recommendations on the ZTA 12-03 to the County Council should include the following:

1. The definition of public event should be defined to help determine the number of people attending, the hours of the events, the duration, and the level of noise.
2. The County may want to consider the definition of a farm winery in Frederick County that requires a Class IV license for Maryland labeled wine.
3. We are not opposed to the 20% fruit growing standard although the AAC recommends that we need to address situations like insects, disease, and severe drought that would allow this threshold to be exceeded in these situations.
4. The AAC acknowledges recent trends for more micro breweries and distilleries and the County Council should consider expanding the intent of the ZTA for these opportunities.

Hearing no additional discussion Tim McGrath motioned to support the 4 items discussed for the AAC recommendation to the Council, Ben Allnutt seconded the motion and it passed. *(Please see the letter to the County Council dated March 26, 2012)*

Discussion on Chapter 22A Forest Conservation and the Outcome of the Dr. Mess Federal District Court Case:

The Federal District Court ruled that the logger-Danny Miller did not have legal standing for the timber that was on the property owned by Dr. Mess. The Court ruling went on to

say that even if Dr. Mess had joined the case the Court would have ruled against the harvesting of the timber due to the position of the County DEP. The outcome of the case revealed there is no recourse for property owners that want to harvest timber when the County will not approve the timber harvest. There is no administrative or judicial appeal process for anyone that owns timber and they want to harvest the timber and the County will not approve of the timber harvest plan. *Please note the statement above was presented to the Montgomery County Farm Bureau Board of Directors on March 6, 2012 by Michele Rosenfeld attorney for the logger Danny Miller.* The Committee was very concerned to learn the outcome of the case and the ruling of the court. It was suggested that the Committee needed to prepare a recommendation to the County Government regarding an amendment to the Chapter 22A Forest Conservation Law that proposes a resolution process. The Committee agreed to discuss this further at a future meeting.

[Agricultural Reserve Conference-Farming at Metros' Edge-Sustaining Agriculture in Frederick and Montgomery Counties-Friday and Saturday November 9 and 10, 2012](http://mocoalliance.org/2012/03/farming-at-metros-edge-conference-full-brochure/) <http://mocoalliance.org/2012/03/farming-at-metros-edge-conference-full-brochure/>

The Committee was informed about an upcoming conference in November 2012 that will promote Agriculture in Frederick and Montgomery Counties. The purpose of the conference is to discuss what is needed for agriculture to remaining viable in these counties. The DED is participating on a Planning Committee of organizations and representatives that will sponsor the conference. Criss said the agricultural community will need to participate in the conference for farm tours and round table discussions on a variety of agricultural topics.

Farmland Preservation Update:

The Committee was informed regarding the Agricultural Easement Program purchase period that will be ending on April 2, 2012 and that several applications have already been submitted. The Committee was also informed regarding the first partial Building Lot Termination-BLT payment made to the County Agricultural Easement CIP project in the amount of \$216,000=.966 BLT. The Committee was also informed regarding the payment in the amount of \$1.0 million from the Designee of the Crown Farm Village LLC that went bankrupt. The Sun Brook Partners, Inc will still need to make the final payment of \$1.0 million for the final lots once they are recorded.

Callum Murray said that he is working on a TDR receiving property and the developer has acquired 103 TDRs at \$25,000 per TDR. The TDRs acquired were floating TDRs that had already been serialized and severed previously from a farm in the RDT zone. Callum also said that he is working on the Limited Map Amendment LMA-G909 in Bethesda which was the subject of the AAC letter dated January 17, 2012 to the County Hearing Examiner. Callum said the developer has agreed to acquire 31 TDRs for the two properties. *(Please see the Attachment B. in the April 17, 2012 meeting packet)*

The Committee was informed that the Designee for the Crown Farm Village LLC that went bankrupt has paid the County Agricultural Easement Program Fund \$1.0 million. The Sun Brook Partners Inc will need to make the final payment in the amount of \$1.0 million once the final lots are recorded.

The next meeting of the AAC is April 17, 2012 in Germantown.

The meeting was adjourned at 9:10 pm.

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